

SENATE AMENDMENTS

2nd Printing

By: Kacal, Price, Lambert, Murr

H.J.R. No. 4

A JOINT RESOLUTION

1 proposing a constitutional amendment authorizing the denial of bail
2 under some circumstances to a person accused of a violent or sexual
3 offense or of continuous trafficking of persons.

4 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Article I, Texas Constitution, is amended by
6 adding Section 11d to read as follows:

7 Sec. 11d. (a) A person accused of committing a violent or
8 sexual offense, or of committing continuous trafficking of persons,
9 may be denied bail pending trial if a judge or magistrate determines
10 by clear and convincing evidence that requiring bail and conditions
11 of release is insufficient to reasonably ensure:

12 (1) the person's appearance in court as required; or

13 (2) the safety of the community, law enforcement, or
14 the victim of the alleged offense.

15 (b) A judge or magistrate who denies a person bail in
16 accordance with this section shall prepare a written order that
17 includes findings of fact and a statement explaining the judge or
18 magistrate's reason for the denial.

19 (c) This section may not be construed to:

20 (1) limit any right a person has under other law to
21 contest a denial of bail or to contest the amount of bail set by a
22 judge or magistrate; or

23 (2) require any hearing or procedure before a judge or
24 magistrate makes a bail decision with respect to a person to whom

1 this section applies.

2 (d) In this section, "violent offense" and "sexual offense"
3 have the meanings assigned by Section 11a of this article.

4 SECTION 2. This proposed constitutional amendment shall be
5 submitted to the voters at an election to be held November 2, 2021.
6 The ballot shall be printed to permit voting for or against the
7 proposition: "The constitutional amendment authorizing the denial
8 of bail under some circumstances to a person accused of a violent or
9 sexual offense or of continuous trafficking of persons."

ADOPTED

MAY 22 2021

Latey Law
Secretary of the Senate

FLOOR AMENDMENT NO. 1

Jean Huffman

1 Amend H.J.R. No. 4 (senate committee printing) as follows:

2 (1) Add the following appropriately numbered SECTION to the
3 joint resolution and renumber subsequent SECTIONS accordingly:

4 SECTION ____ . Section 11, Article I, Texas Constitution, is
5 amended to read as follows:

6 Sec. 11. (a) All prisoners shall beailable by sufficient
7 sureties, unless for capital offenses, when the proof is evident;
8 but this provision shall not be so construed as to prevent bail
9 after indictment found upon examination of the evidence, in such
10 manner as may be prescribed by law.

11 (b) In making a bail decision, a judge or magistrate shall
12 impose the least restrictive conditions, if any, and amount of
13 bail, if any, necessary to reasonably ensure the accused person's
14 appearance in court as required and the safety of the community,
15 law enforcement, and the victim of the alleged offense.

16 (2) In SECTION 1 of the joint resolution, in added Section
17 11d, Article I, Texas Constitution, strike page 1, lines 20-21,
18 and substitute the following:

19 Sec. 11d. (a) A person who is charged with a first-degree
20 felony; or, a person who is charged with a violent offense
21 or continuous trafficking of persons and (1) has been
22 previously been convicted of a violent or sexual offense;
23 (2) is under information or indictment for another violent
24 or sexual offense or charge of continuous trafficking of

25 persons; or (3) has previously been convicted of a first-
26 degree felony

27 (3) In SECTION 1 of the joint resolution, in added Section
28 11d, Article I, Texas Constitution (page 1, line 39), between "(d)"
29 and "In this section", insert the following:

30 For purposes of determining whether clear and convincing
31 evidence exists to deny a person bail as described by this
32 section, a judge or magistrate shall consider the factors
33 required to be considered by a judge or magistrate in setting
34 bail under general law, including statutory law governing
35 criminal procedure.

36 (e)

37 (4) In SECTION 2 of the joint resolution, in the ballot
38 proposition language (page 1, line 44), between "amendment" and
39 "authorizing", insert "requiring a judge or magistrate to impose
40 the least restrictive conditions and amount of bail necessary
and".

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 24, 2021

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HJR4 by Kacal (Proposing a constitutional amendment authorizing the denial of bail under some circumstances to a person accused of a violent or sexual offense or of continuous trafficking of persons.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated, other than the cost of publication.

The cost to the state for publication of the resolution is \$178,333.

The joint resolution would propose a constitutional amendment requiring a judge or magistrate to impose the least restrictive conditions and amount of bail necessary and authorizing the denial of bail under some circumstances to a person accused of a violent or sexual offense or of continuous trafficking of persons.

According to the Office of Court Administration (OCA), no significant fiscal impact to the State court system is anticipated.

Local Government Impact

According to OCA, no significant fiscal impact to units of local government is anticipated.

Source Agencies: 212 Office of Court Admin

LBB Staff: JMc, CMA, SLE, DPE, DKN

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 19, 2021

TO: Honorable Joan Huffman, Chair, Senate Committee on Jurisprudence

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HJR4 by Kacal (Proposing a constitutional amendment authorizing the denial of bail under some circumstances to a person accused of a violent or sexual offense or of continuous trafficking of persons.), **As Engrossed**

No significant fiscal implication to the State is anticipated, other than the cost of publication.

The cost to the state for publication of the resolution is \$178,333.

The joint resolution would propose a constitutional amendment authorizing the denial of bail under some circumstances to a person accused of a violent or sexual offense or of continuous trafficking of persons.

According to the Office of Court Administration (OCA), no significant fiscal impact to the State court system is anticipated.

Local Government Impact

According to OCA, no significant fiscal impact to units of local government is anticipated.

Source Agencies: 212 Office of Court Admin

LBB Staff: JMc, SLE, CMA, DPE, DKN

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 3, 2021

TO: Honorable Nicole Collier, Chair, House Committee on Criminal Jurisprudence

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HJR4 by Kacal (Proposing a constitutional amendment authorizing the denial of bail under some circumstances to a person accused of a violent or sexual offense or of continuous trafficking of persons, and requiring the denial of bail to a person accused of capital murder or a sexual offense involving a victim younger than 17 years of age under most circumstances.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated, other than the cost of publication.

The cost to the state for publication of the resolution is \$178,333.

The joint resolution would propose a constitutional amendment authorizing the denial of bail under some circumstances to a person accused of a violent or sexual offense or of continuous trafficking of persons, and requiring the denial of bail to a person accused of capital murder or a sexual offense involving a victim younger than 17 years of age under most circumstances.

According to the Office of Court Administration (OCA), no significant fiscal impact to the State court system is anticipated.

Local Government Impact

According to OCA, no significant fiscal impact to units of local government is anticipated.

Source Agencies: 212 Office of Court Admin

LBB Staff: JMc, DKN, CMA, DPE

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

April 6, 2021

TO: Honorable Nicole Collier, Chair, House Committee on Criminal Jurisprudence

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HJR4 by Kacal (Proposing a constitutional amendment authorizing the denial of bail to an accused person if necessary to ensure the person's appearance in court and the safety of the community, law enforcement, and the victim of the alleged offense, and requiring the denial of bail to a person accused of capital murder or a sexual offense involving children under most circumstances.), **As Introduced**

No significant fiscal implication to the State is anticipated, other than the cost of publication.

The cost to the state for publication of the resolution is \$178,333.

The joint resolution would propose a constitutional amendment authorizing the denial of bail to an accused person if necessary to ensure the person's appearance in court and the safety of the community, law enforcement, and the victim of the alleged offense and requiring the denial of bail to a person accused of capital murder or a sexual offense involving children under most circumstances.

According to the Office of Court Administration (OCA), no significant fiscal impact to the State court system is anticipated.

Local Government Impact

According to OCA, no significant fiscal impact to units of local government is anticipated.

Source Agencies: 212 Office of Court Admin

LBB Staff: JMc, DKN, CMA, DPE